

**CHAPTER NO. 772****SENATE BILL NO. 3631****By Bryson****Substituted for: House Bill No. 3670****By Curtiss**

AN ACT to amend Tennessee Code Annotated, Title 13, Chapter 7; Title 38, Chapter 6; Title 50, Chapter 3; Title 50, Chapter 6; Title 50, Chapter 9 and Title 56, relative to workers' compensation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 50-6-238(d), is amended by deleting the subsection in its entirety and by substituting instead the following:

(d) (1) (A) If a specialist issues an order that denies the compensability of the employee's claim or denies workers' compensation benefits to the employee, the employee may request the administrator of the Division of Workers' Compensation to reconsider the specialist's order by submitting a written request to the administrator in a format specified by the administrator. The written request shall be submitted to the administrator no later than seven (7) calendar days from the date on which the employee received the specialist's order denying compensability and/or benefits. If no written request to reconsider the order of a specialist is submitted to the administrator of the Workers' Compensation Division, the order of the specialist becomes final.

(B) (i) If a specialist issues an order for the payment of workers' compensation benefits pursuant to this section, the party against whom the order was issued may request the administrator of the Division of Workers' Compensation to reconsider the specialist's order by submitting a written request to the administrator in a format specified by the administrator. The written request shall be submitted to the administrator no later than seven (7) calendar days from the date on which the party received the specialist's order that is the subject of the request.

(ii) If no written request to reconsider the order of a specialist is submitted to the administrator of the Workers' Compensation Division as provided herein, the party against whom a specialist has issued an order to provide or pay workers' compensation benefits shall comply with the order within fifteen (15) calendar days of the receipt of the order.

(iii) If a written request for reconsideration of a specialist's order is submitted to the administrator of the Division of Workers' Compensation, the party against whom a specialist has issued an

order to provide or pay workers' compensation benefits is not required to comply with the specialist's order as outlined in subdivision (B)(ii) above.

(2) (A) After receipt of a written request for reconsideration of a specialist's order, an informal conference with the affected parties shall be conducted by the administrator or the administrator's designee. The informal conference with the administrator or the administrator's designee shall occur within ten (10) calendar days of the date the administrator received the written request for reconsideration. The administrator's designee shall have been an employee of the benefit review section of the Division of Workers' Compensation for a minimum of five (5) years and shall not be the specialist who issued the order that is the subject of reconsideration.

(B) Within seven (7) calendar days following the conclusion of the informal conference, a written order shall be issued and signed by the administrator or administrator's designee. If the order issued and signed by the administrator or administrator's designee orders the payment of workers' compensation benefits to or on behalf of the employee, the party against whom the order is issued shall comply with the order within ten (10) calendar days of the receipt of the order of the administrator or administrator's designee.

(3) If an insurer, self-insured employer or self-insured pool fails to comply with an order issued by a specialist within fifteen (15) calendar days of receipt of the order or fails to comply with an order issued by the administrator or administrator's designee within ten (10) calendar days of the receipt of the order, whichever is applicable, the Commissioner of Labor and Workforce Development shall assess a penalty in the amount of ten thousand dollars (\$10,000). Notification of the assessed penalty shall be sent to the insurer, self-insured employer or self-insured pool by facsimile, electronic mail or certified mail. Such insurer, self-insured employer or self-insured pool shall have five (5) calendar days from the receipt of the notification of penalty to respond and prove that it has complied with the specialist's order. If satisfactory proof of compliance is not received by the twenty-first calendar day after receipt of the notification of penalty, additional penalties in the amount of one thousand dollars (\$1,000) per day shall begin to accrue on the twenty-first day. The insurer, self-insured employer or self-insured pool shall have the right to appeal the penalty assessed by the Commissioner of Labor and Workforce Development for failure to comply with an order issued by a specialist or by the administrator or administrator's designee pursuant to the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5.


(4) In addition to any other penalty provided by law, if an insurer, self-insured employer or self-insured pool fails to comply with an order issued by a specialist or fails to comply with an order issued by the administrator or the administrator's designee within thirty (30) days of receipt of the order, the Commissioner of Labor and Workforce Development shall notify the Commissioner of Commerce and Insurance of such failure to comply. The Commissioner of Commerce and Insurance may consider the continued failure to

comply with the order of the specialist or administrator or the administrator's designee as a violation of Title 56, Chapter 8, which subjects the insurer to the penalty provisions of § 56-8-109, and may consider any failure by a self-insured employer or self-insured pool to comply with the order of the specialist sufficient grounds to revoke the employer's status as a self-insured employer or self-insured pool pursuant to § 50-6-405.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

**PASSED: May 11, 2006**

  
JOHN S. WILDER  
SPEAKER OF THE SENATE

  
JIMMY NAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES

**APPROVED this 26<sup>th</sup> day of May 2006**

  
PHIL BREDESEN, GOVERNOR